IN RE:

PETITION FOR SPECIAL HEARING N/S Dorsey Avenue, 350' E of the c/l of Taylor Avenue

(515 Dorsey Avenue) 15th Election District

7th Councilmanic District

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 97-184-SPH

Ottorino Felluca, et al Petitioners \*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 515 Dorsey Avenue, located in the vicinity of Eastern Avenue in Essex. The Petition was filed by the owners of the property, Ottorino Felluca, Giovanna Felluca, and Ronald B. Felluca. The Petitioners seek approval of the subject property as nonconforming, two-apartment dwelling. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Ottorino, Giovanna and Ronald Felluca, legal owners of the property, Constantine Karaylanis, and Joan McKemy. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of 7,250 sq.ft., zoned D.R. 5.5, and is improved with a dwelling The Petitioners requested which has been converted into two apartments. special hearing to approve the dwelling as a legal, nonconforming twothe apartment dwelling. On behalf of the Petitioners, Constantine Karayianis Joan McKemy offered testimony in support of the request. Both of these individuals resided in the Essex area at one time and are familiar with the subject property. Ms. McKemy testified that her parents actually lived in one of the apartments contained in the dwelling. Both of these individ-

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uals testified that the subject dwelling has always been used as a two-apartment dwelling since prior to 1953. Furthermore, the owners testified that since their purchase of the property in 1984, the property has been used continuously and without interruption as two apartments.

Section 101 of the B.C.Z.R. defines a nonconforming use as a

Section 101 of the B.C.Z.R. defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. In essence, a nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. However, the Petitioner must adduce testimony and evidence that any such use existed prior to the effective date of the prohibiting legislation. Moreover, it must be shown that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began.

The first task is to determine whether a lawful nonconforming use existed on the subject property prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1945 for a three apartment use and 1955 for a two apartment use.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then



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By

the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

- "(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;
- (b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
- (c) Does the current use have a substantially different effect upon the neighborhood;
- (d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

#### McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a two-apartment dwelling since prior to 1955, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3<sup>rd</sup> day of December, 1996 that the Petition for Special Hearing seeking approval of the subject property as a legal, nonconforming, two-apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner for Baltimore County

TMK:bjs



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse 400 Washington Avenue Towson, Maryland 21204 (410) 887-4386

December 3, 1996

Messrs. Ottorino Felluca, Giovanna Felluca, and Ronald B. Felluca 205 6th Avenue, S.E. Glen Burnie, Maryland 21061

RE: PETITION FOR SPECIAL HEARING

N/S Dorsey Avenue, 350' E of the c/l of Taylor Avenue

(515 Dorsey Avenue)

15th Election District - 7th Councilmanic District

Ottorino Felluca, et al - Petitioners

Case No. 97-184-SPH

Dear Messrs. Felluca:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

buthy lotrow

for Baltimore County

TMK:bjs

c: People's Counsel

/1e

Lucroff M.



## Petition for Special Hearing

## 97-184-5PH to the Zoning Commissioner of Baltimore County

for the property located at 515 DORSEY AVENUE which is presently zoned D

ITEM # 184

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the NON conforming use of the Above property as a two apartment dwelling.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

		•
		I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(a) of the property which is the subject of this Petition.
Contract I	Puchaser/Lessee:	Legal Owner(s):
		OTTORINO FELLUCA
(Type or f	Print Name)	(Type or Film Name) Wyellura
		UM ellura
Signature		Signature  GIOVANNA FELLINA  (Type or Print Name)  OVANNO JUNE
		GIOVANNA FELLUARA
Address		
		One of to Oliver
City	State Zipcode	Signature Rould Jollines ROMAID B. FELLERCA
		205 6+4 A NENLU S.F. 766 1748 Address Phone No.
Attorney fo	or Petitioner:	
		GLENBURNIE Md 21061 City State Zipcode
(Type or P	rist Name)	City State Zipcode Name, Address and phone number of representative to be contacted.
	<u> </u>	Name  ZOS 6 th Ave S.E 766 1748  Address Phone No.
Signature		Name
<del></del>		2056th Aves. 6 766 1748
Address	Phone No.	
City	State Zipcode	OFFICE USE ONLY
	, amts.	ESTIMATED LENGTH OF HEARING unavailable for Hearing
	Stille Admidition of	the following dates Next Two Months
	MICROFILMED	ALLOTHER
	WICKOLITIME -	REVIEWED BY: JPF DATE 10-21-96
<b>₩</b>	1 5 000	

97-184-5PH

ZONING DESCRIPTION FOR 515 Doresey Avenue.

Being Lot # 25

Block D, Section # A in the subdivision of Essex

as recorded in Baltimore County Plat Book # WPC 3, Folio # 15,

containing 0.16 acres. Also known as 515 Dorsey Avenue

and located in the 15th Election District, 7th Councilmanic District.

#184



Baltimore County
Department of Permits and
Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

### ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

			ARNOLD	JABLON,	DIRECTOR
For newspape	r advertis	ing:			
Item No.: 10	54	<del></del>			
Petitioner:	0110	RINO FO	FLLUC	, <u>A</u>	
Location:	515	DORSEY	AVE.	~	
PLEASE FORWA	RD ADVERT	SING BILL TO:			
NAME:	TORIN	O FEL	LUCA		
address: 2	05	674 AVE	whe .	5.61	
GLEN	BUR.	Nie, Ma	12106	5/	
		76617		<del></del>	

AJ:ggs

(Revised 09/24/96)

### CERTIFICATE OPPOSTING

	RE: Case No.: 97-184-5PH
	Petitioner/Developer:
	OTTORINO FELLUCA
	Date of Hearing/Glesing: 11-22-96
Permits a County O 111 West	County Department of and Development Management of the Building, Room 111 Chesapeake Avenue MD 21204
Attention	: Ms. Gwendolyn Stephens
Ladies and	d Gentlemen:
	r is to certify under the penalties of perjury that the necessary sign(s) required by law ted conspicuously on the property located at 515 Doesey AVE
	TIMORE, MARYLAND 21221
The sign(s	s) were posted on
	(Month, Day, Year)
	Sincerely,
ZONI	NG NOTICE  Olympia Del 11/0/96  (Signature of Sign Poster and Date)
A PURTE HEAL FOR ZERM	197-1841-SPH  THOMAS P. DOLE SK  OR COMMISSION IS  (Printed Name)
PLACE . WON 104	ACTIONITY OFFICE MADE AND ASSESSED AND ASSESSED ASSESSED AND ASSESSED ASSESSED ASSESSED AND ASSESSED A
The Art of the Control of the Contro	BALTIMES MO 21221 (City, State, Zip Code)
- (parent - ser, 16-)	(410) 687-8405
	C 7/0) 68/-090

97-184-5PH

Request i	or Zoning: Variance, Special Exception, or Special Hearing Posted: Anytime before but no later than  or Sign Printing, Black Letters on White Background:
	ZONING NOTICE
	Case No.:

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD PLACE: DATE AND TIME: TO APPROVE THE NON-CONFORMING USE REQUEST: APARTMENT DWELLING. FOR TWO POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391. DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW HANDICAPPED ACCESSIBLE

9/96 post,4.doc TO: PUTUXENT PUBLISHING COMPANY November 7, 1996 Issue - Jeffersonian Please foward billing to: Ottorino Felluca 205 6th Avenue, S.E. Glen Burnie, MD 21061 766-1748 NOTICE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 104 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows: CASE NUMBER: 97-184-SPH (Item 184) 515 Dorsey Avenue N/S Dorsey Avenue, 350' E of c/l Taylor Avenue 15th Election District - 7th Councilmanic Legal Owner9s): Ottorino Felluca, Giovanna Felluca, and Ronald B. Felluca Special Hearing to approve the non-conforming use of the property as a two apartment dwelling. HEARING: PRIDAY, NOVEMBER 22, 1996 at 9:00 a.m. in Room 106, County Office Building. LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

October 31, 1996

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore
County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-184-SPH (Item 184)

515 Dorsey Avenue

N/S Dorsey Avenue, 350° E of c/l Taylor Avenue 15th Election District - 7th Councilmanic

Legal Owner9s): Ottorino Felluca, Giovanna Felluca, and Ronald B. Felluca

Special Hearing to approve the non-conforming use of the property as a two apartment dwelling.

HEARING: FRIDAY, NOVEMBER 22, 1996 at 9:00 a.m. in Room 106, County Office Building.

Arnold ablon

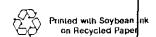
Director

cc: Ottorino Felluca, et al

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY NOVEMBER 7, 1996.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





## Baltimore County Department of Permits and Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

November 18, 1996

Mr. and Mrs. Ottorino Felluca 205 6th Avenue S.E. Glen Burnie, MD 21061

RE: Item No.: 184

Case No.: 97-184-SPH

Petitioner: Ottorino Felluca, et ux

Dear Mr. and Mrs. Felluca:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on October 21, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.

Zoning Supervisor

WCR/re
Attachment(s)



Printed with Soybean Ink on Recycled Paper

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: November 14, 1996

Department of Permits & Development

Management

FROM:

Robert W. Bowling, Chief

Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for November 12, 1996

Item No. 184

The Development Plans Review Division has reviewed the subject zoning item. The issue of parking should be addressed.

RWB:HJO:jrb

cc: File

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Permits and Development

Management

FROM:

Pat Keller, Director

Office of Planning

SUBJECT:

Hetitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 177, 183, 184, 186, 189, 190, 191, 192, 194, and 195

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by:

Division Chief:

PK/JL

MICROFILMED

DATE: November 4, 1996

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO:

MD9

DATE: 100 196

FROM:

R. Bruce Seeley

Permits and Development Review

DEPRM

SUBJECT:

Zoning Advisory Committee Meeting Date: WWW. 4 1996

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

RBS:sp

BRUCE2/DEPRM/TXTSBP

MICROFILMED



### *Maryland Department of Transportation* State Highway Administration

David L. Winstead Secretary Parker F. Williams Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 11.1.96

Item No. 184 () RF)

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-545-5581 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for

Ronald Burns, Chief

P.J. Dredhi

Engineering Access Permits

Division

BS/es

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech 1-800-735-2258 Statewide Toll Free



# Enforcement

Baltimore County
Department of Permits & Development Management
11 West Chesapeake Avenue
Towson, Maryland 2(204
(4(0) 887-335)

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Larry E. Schmidt

DATE: November 1, 1996

**Zoning Commissioner** 

FROM:

James H. Thompson - DP

Code Inspections and Enforcement Supervisor

RE:

ITEM NO.:

184

PETITIONER:

Ottorino Felluca and Giovanna Felluca

Tenants By Entireties Ronald B. Felluca

VIOLATION CASE NO.:

C-97-764

LOCATION OF VIOLATION:

515 Dorsey Avenue

15th Election District

DEFENDANTS:

Ottorino Felluca, Giovanna Felluca and Ronald B. Felluca

515 Dorsey Avenue

Baltimore, Maryland 21221

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s):

NAME

**ADDRESS** 

Joe Meisser

517 Dorsey Avenue

Baltimore, Maryland 21221

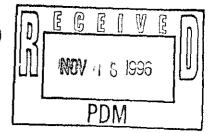
After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Inspections and Enforcement Supervisor, so that the appropriate action may be taken to the violation case.

JHT/DP/hek

MICROFILMED

#### Baltimore County Government Fire Department





Office of the Fire Marshal (410) 887-4880

700 East Joppa Road Towson, MD 21286-5500

DATE: 11/14/96

Arnold Jablor Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204 MAIL STOP-1105

RE: Property Owner: SEE BELDW

Location: DISTRIBUTION MEETING OF NOV. 04, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 183, 184, 186, 189, 190, 191, 194 AND 195.

REVIEWER: LT. ROBERT P. SAUERWALD

fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED.

,	PETITION FOR SPECIAL HEARING	*	BEFORE THE
515	Dorsey Avenue, N/S Dorsey Avenue,		
350	' E of c/l Taylor Avenue	*	ZONING COMMISSIONER
15t	h Election District, 7th Councilmanic		
ſ		*	OF BALTIMORE COUNTY
ott	orino Felluca, et al.		
1	Petitioners	*	CASE NO. 97-184-SPH
ľ			

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue

Towson, MD 21204 (410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of November, 1996, a copy of the foregoing Entry of Appearance was mailed to Ottorino, Giovanna, and Ronald Felluca, 205 6th Avenue, S.E., Glen Burnie, MD 21061, Petitioners.

Leter May Zimmeinan
PETER MAX ZIMMERMAN

|Variance |X|Special Hearing see pages 5 & 6 of the CHECKLIST for additional required information LOCATION INFORMATION Zoning Office USE ONLY! SEWER: X 7250.00 CASE#: square feet Chesapeake Bay Critical Area: scale: 1'=1000' Prior Zoning Hearings: Noul Vicinity Map ITEM #: Councilmanic District: 7  $\frac{Z}{Z}$ Election District: 15 1'=200' scale map#: Zoning: DR SS Lot size: 0.16 reviewed by: 4 350 to \$ 64 Plat to accompany Petition for Zoning Doctory askenia (50' Rid 4) pavily Han Fall SKTILE. Scale of Drawing: 1'= 50 Desd در) PROPERTY ADDRESS: 515 DOGSEY Avenue GIOVANNA ∢ plat book# 3, follo# 15, lot# 25, section# RONA 13 B. FELLWCA #15 P OWNER: OTTORING FELLUCA Subdivision name: & SSKX prepared by: date: 19 ; 76 North

1